

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DARYEL P. OLIVER,)	
)	
Petitioner,)	
)	
v.)	Case No. 07-CV-0358-MJR
)	
SARA REVELL,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

REAGAN, District Judge:

On July 22, 2008, the Court received a motion for a certificate of appealability from Oliver dated July 11, 2008 (Doc. 22). Pursuant to 28 U.S.C. § 2253, a district judge may grant a certificate of appealability after a final order is issued in a habeas corpus proceeding. However, no final order has issued in this case as of yet.

On January 14, 2008, Magistrate Judge Philip M. Frazier entered a Report recommending that Oliver's motion under 28 U.S.C. § 2241 be denied (Doc. 18). On January 24, 2008, Oliver timely filed an objection to the report and recommendation (Doc. 19). The undersigned District Judge has yet to rule on those objections.

Petitioner Oliver appears to recognize that an appeal from a Magistrate Judge's Order is the proper procedure at this juncture, as he cites 28 U.S.C. 636(b), which pertains to the powers of Magistrate Judges, and Local Rule 73.1(b), which provides the procedure for appealing from a Magistrate Judge's recommendation.

Oliver can be assured that the Court timely received his objections. As such, Oliver's appeal from the Magistrate Judge's recommendation is fully briefed and an Order will be

forthcoming.

Accordingly, Oliver's motion for a certificate of appealability is **DENIED AS PREMATURE** (Doc. 22).

IT IS SO ORDERED.

DATED this 25th day of July 2008.

s/ Michael J. Reagan
MICHAEL J. REAGAN
United States District Judge